

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-0238V

UNPUBLISHED

LESLIE G. BROMBERG,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 10, 2023

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Pevnar-13; Shoulder Injury Related
to Vaccine Administration (SIRVA)

Andrew Donald Downing, Downing, Allison & Jorgenson, Phoenix, AZ , for Petitioner.

Kimberly Shubert Davey, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On January 7, 2021, Leslie G. Bromberg filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of a Pevnar-13 vaccine administered on June 16, 2020. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 28, 2023, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On May 10, 2023, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$90,000.00 in actual pain and suffering. Proffer at 1. In the Proffer, Respondent represented that Petitioner

¹ Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$90,000.00 in actual pain and suffering in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

On January 7, 2021, Leslie G. Bromberg (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, as amended (“the Vaccine Act” or “the Act”), 42 U.S.C. §§ 300aa-1 to -34. Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”), a Table injury, as a result of an Prevnar-13 vaccine administered to her on June 16, 2020. Petition at 1. On April 27, 2023, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report recommending that compensation be awarded. ECF No. 56. On April 28, 2023, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 57.

Respondent proffers that petitioner should be awarded \$90,000.00 in actual pain and suffering. *See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respondent recommends that the compensation provided to petitioner should be made through a

lump sum payment as described below and requests that the Chief Special Master's decision and the Court's judgment award the following¹: a lump sum payment of \$90,000.00, representing compensation for all elements of economic and noneconomic damages, in the form of a check payable to petitioner, Leslie G. Bromberg.

III. Summary of Recommended Payments Following Judgment

Lump sum payable to petitioner, Leslie G. Bromberg: \$90,000.00

Respectfully submitted,

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DATED: May 10, 2023

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings and future pain and suffering.